

## QUOTA MANAGEMENT ADVISORY COMMITTEE POLICY ON CONFLICT OF INTEREST

***This policy document is a code of practice appropriate to Members of the Quota Management Advisory Committee and their stand-in representatives. The policy should be read in conjunction with any accompanying appendices.***

### **Aim of this Policy**

Members of the Quota Management Advisory Committee ('QMAC' or 'Committee') have an obligation to act in the best interests of the Committee. Conflicts of interests may arise where an individual QMAC Member's business, personal or family interests and/or loyalties conflict with the interests of the QMAC. Such conflicts may, *inter alia*:

- Inhibit free discussion;
- Result in decisions or actions that are not in the interests of the management of the national quota;
- Risk the impression that the QMAC has acted improperly;
- Lead to legal or other challenges to decisions made by the Minister of Agriculture, Food and the Marine (Minister) on the recommendations of the QMAC.

The aim of this policy is to protect the QMAC, individual Members of the QMAC, and any decision made by the Minister on the recommendations of the QMAC from any appearance of objective or apparent bias or impropriety. Regulation of conflict of interest ensures the legitimacy of the Committee's role and avoids any impression that the QMAC has acted improperly.

### **Declaration of Interests and Conflict of Interest**

QMAC Members and their stand-in representatives are required to declare business interests, personal interests, family interests and/or directorships in fishing operations, fishing companies or any other entities or activities ('interest(s)'), whether these interests are national or international, to the Minister so that the Minister may determine whether any of the interests declared may actually or may reasonably be perceived to give rise to a conflict of interest ('perceived conflict') when giving a view on quota management issues. This includes the declaration of any existing legal disputes between the Member (or stand-in representative) and any parties affected by the deliberations of the QMAC. A Declaration of Interests form is provided for this purpose, which all QMAC Members and their stand-in representatives are required to read, complete, date and sign. The Declaration is reliant on the cooperation, honesty and integrity of each Member and stand-in representative.

A conflict of interest can be broadly defined as a situation where the Minister decides that an individual QMAC Member, or his or her family member, has any pecuniary interest, or other beneficial interest, in any matter on which the QMAC makes a recommendation to the Minister. The Conflict of Interest Policy applies to any of the individuals sitting on the QMAC and responsibility for declaration of interests is not and cannot be delegated to the representative organisations or any representative agents. If Minister is to give weight to the recommendations of the Committee, the Minister must be fully satisfied that individual members are not motivated by personal or pecuniary interests which are in conflict with the interests of the management of the national quota.

Where a QMAC Member or a stand-in representative sets out details of an interest in any Declaration of Interests form, the decision rests with the Minister, having been advised by the Chairperson of the QMAC, as to whether anything contained in these details constitutes an actual conflict of interest or what may be reasonably perceived as a conflict of interest. The Chairperson or Minister may also request further details from the QMAC Member, if required, to further inform the Minister's decision. The QMAC Member is required to fully cooperate with any such request. It is a matter for the Minister and not for the QMAC Member, any representative organisation or any agent acting on behalf of the Member to determine whether a conflict of interest exists. The decision of the Minister is final and will be conveyed to the Member in writing at the earliest possible opportunity.

The Declaration of Interests form is to be updated annually, ideally prior to the annual Quota Planning meeting or as near as possible thereafter; or when an individual QMAC member becomes aware of any potential interest; or when any changes in QMAC membership occur; or when there has been a change in the policy. Where a QMAC Member updates his or her Declaration of Interests form and no longer has an interest to declare, which was previously declared, that QMAC Member is asked to fully explain the change in circumstances which have resulted in that interest no longer applying to him or her. The updated form is to be submitted to the Department without unreasonable delay and at the latest 2 hours prior to the next QMAC meeting.

In accordance with Data Protection legislation and in line with the Sea-Fisheries Policy & Management Division's data retention policy, completed Declaration of Interest forms will be held securely by the Division for a period of no more than 6 years, and then destroyed, unless there is a specific business need to keep the form for a longer period, in which case the Division will inform the particular individual concerned. The information provided will not be used for any other purpose.

It is expected that the Conflict of Interest Policy will be reviewed periodically, ideally prior to the QMAC annual planning meeting, or as near as possible thereafter, and in consultation with QMAC Members. However, the Minister may decide to make a change to the Conflict of Interest Policy at any time where this change is in the interests of the management of the national quota. Members will be informed accordingly.

**It will not be possible for a Member to participate in the Committee or in any individual meeting of the Committee unless they have complied with the above requirements.**

### **Conflict of Interest Procedure at Meetings**

At the start of each meeting, the Chairperson will read out a short statement to inform guests (observers) of the policy in relation to conflict of interest and to remind QMAC Members or their stand-in representatives of their responsibility under the policy.

Where QMAC Members or their stand-in representatives have a declared interest or interests related to the fishery/quota under discussion, they must revert to the status of an observer for that portion of the meeting and their views on the particular fishery/quota under discussion will not be brought to the attention of the Minister.

Only *two representatives* from the same organisation can attend any one QMAC meeting, one acting as a QMAC Member and one as a guest. Guests of the QMAC Member organisations remain as observers for the duration of the meeting. Their participation is restricted to providing technical information only and any information they provide will not be brought to the attention of the Minister. The only exception to this rule is where the guest of a QMAC member is attending in his or her capacity as a spokesperson for a particular fishery representative group and is updating the QMAC on the recommendations or views of that fishery representative group in respect of a particular fishery or fisheries. In this limited scenario, the views of a guest may be brought to the attention of the Minister.

Should a QMAC Member or stand-in representative only become aware of any potential interest during the course of the meeting, they must revert to the status of an observer for that portion of the meeting and their views will not be brought to the attention of the Minister. The individual is not required to disclose details of the interest at the meeting but must indicate to the Chairperson that an interest exists. If the matter relates to a sensitive business issue, they are not required to indicate that an interest exists but must revert to the status of an observer for that portion of the meeting. However, after the meeting, they must inform the Chairperson of the interest and indicate that it is a sensitive business issue.

*QMAC Members or stand-in representatives who become aware of any potential interest during the course of the meeting should update their Declaration of Interests form after the meeting and submit this to the Department without unreasonable delay and at the latest 2 hours prior to the next QMAC meeting.*

### **Repercussions for not declaring an Interest**

Any repercussions or consequences for omitting to declare an interest are proportionate and enforceable sanctions set out in the Declaration of Interests form that all QMAC members sign. These include:

- Disciplinary action (for Department employees only);
- Suspension from QMAC for a number of meetings, as determined by the Minister, depending on the seriousness of the omission;
- Possible exclusion from the QMAC, as determined by the Minister, where an individual member or stand-in representative refuses to comply with the conflict of interest policy and/or refuses to submit a signed declaration of interests form and/or does not cooperate with the Chairperson or Minister in respect of any interests declared therein;
- Retroactive cancellation/amendment of a decision made by the Minister on the recommendation of the QMAC, where practicable.

Complaints that a QMAC member has not declared an interest should be made at the earliest opportunity to the Chairperson of the QMAC. The Member has the right to have the complaint outlined to them and a right of reply. The Chairperson will refer the matter to the Minister for final decision. The Chairperson has the right to advise the QMAC of the outcome of the decision. As outlined above, this may include, where applicable, possible suspension for an appropriate number of meetings, depending on the seriousness of the omission. Decisions made by the Minister in good faith, as determined by the Minister, on the recommendation of the QMAC, can also be retroactively cancelled or amended, if practicable, if a Member has not declared an interest and a conflict of interest is found to have occurred.

### **Statement to be read out at the start of every QMAC meeting:**

“In accordance with the Quota Management Advisory Committee’s Policy on Conflict of Interest, all QMAC Members and their stand-in representatives should have an up-to-date signed Declaration of Interests form lodged with the Sea-Fisheries Policy and Management Division of the Department. Where you have any declared interest(s) related to the fishery/quota under discussion, you must revert to the status of an observer for that part of the meeting today and your views will not be brought to the attention of the Minister.

Please note, if you are here as a guest of a QMAC Member, you are here as an observer only. Your participation is restricted to providing technical information only and any such information will not be brought to the attention of the Minister. The only exception to this rule is if you are attending in your capacity as a spokesperson for a particular fishery representative group and are here to update the QMAC on the recommendations or views of that fishery representative group in respect of a particular fishery or fisheries. In this limited scenario, your views, as a guest of a QMAC Member, may be brought to the attention of the Minister.

Should any QMAC Member or stand-in representative become aware of any potential interest during the course of the meeting, they must indicate to the Chairperson that such an interest exists and revert to the status of an observer for that portion of the meeting. They are required to update their Declaration of Interests form after the meeting and submit to the Department without unreasonable delay, and at the latest 2 hours prior to the next QMAC meeting. The Member is not required to disclose details of the interest at the meeting.”

**Conflict of Interest**

Conflict of interest can be broadly defined as a situation where the Minister decides that an individual QMAC Member, or his or her family member, has any pecuniary interest, or other beneficial interest, in any matter on which the QMAC makes a recommendation to the Minister.

A person is regarded as having a pecuniary or beneficial interest if:

- the QMAC Member or a family member is a member of a company or any other body, whether national or international, which has a beneficial interest in any matter considered by the QMAC;
- the QMAC Member or a family member is in partnership with, or is in the employment of, a person, where national or international, who has a beneficial interest in, or material to, any such matter.

**Minister:** refers to the Minister of Agriculture, Food and the Marine. The QMAC exists at the discretion of the Minister, and he or she is entitled to set down rules of procedure to ensure that the Committee fulfils its purpose of management of the national quota. This includes the implementation of an effective conflict of interest policy, including, where necessary, the suspension or exclusion of individual QMAC members from participating in meetings to ensure that the Minister's decisions are not undermined by the apparent or objective bias of representatives. Decisions made by the Minister in good faith, on the recommendation of the QMAC, can also be retroactively cancelled or amended, where practicable, if a conflict of interest is found to have occurred. It is for the Minister only to determine whether any of the interests declared may actually or may reasonably be perceived to give rise to a conflict of interest ('perceived conflict') when giving a view on quota management issues. The Minister reserves the right to employ the precautionary principle and request further information from QMAC Members to preserve the integrity of the QMAC and any decisions he or she makes on the recommendations of the QMAC. Any QMAC Member is required to fully cooperate with any such request and where a QMAC Member refuses to fully cooperate the Minister reserves the right to suspend such QMAC Member until such time as he or she supplies the information requested. The QMAC must not only act impartially in practice, it must be perceived as impartial to function as a trusted advisory committee. The Minister's decisions on conflict of interest are not a reflection on the probity of an individual, rather they ensure the QMAC's impartiality in all matters relating to the management of national quota.

**QMAC Member:** Any individual representative from one of the various organisations listed below under Appendix 2, who ordinarily attends QMAC meetings and who has completed, signed and dated a Declaration of Interest form and abides by the Conflict of Interest Policy, including the Code of Conduct. His or her views may be brought to the attention of the Minister.

**Stand-in Representative:** Any individual delegated by a QMAC Member to attend in that Member's absence and who has completed, signed and dated a Declaration of Interest form and abides by the Conflict of Interest Policy, including the Code of Conduct. His or her views may be brought to the attention of the Minister.

**Guest:** an individual who attends with a QMAC Member in an observational capacity only. A guest (observer) may not make any recommendations and may only make technical observations, which will not be brought to the attention of the Minister. The only exception to this rule is where the guest of a QMAC member is attending in his or her capacity as a spokesperson for a particular fishery representative group and is updating the QMAC on the recommendations or views of that fishery representative group in respect of a particular fishery or fisheries. In this limited scenario, the views of a guest may be brought to the attention of the Minister.

**Family Member:** For the purposes of this Policy, a family member is defined as a spouse, civil partner, parent, brother, sister, child or the spouse or civil partner of a child of the person.

**Chairperson:** The QMAC is chaired by a senior Departmental official, at HEO grade or higher, and is responsible for implementing the Minister's Conflict of Interest Policy. The Chairperson also acts as a QMAC Member and is bound by the Conflict of Interest Policy in the same manner as other QMAC Members. However, he or she may not chair any meeting of the QMAC where he or she has an interest in any matter up for discussion. Should the Chairperson become aware of any interest during the course of a QMAC meeting, he or she should absent himself/herself from the meeting and another senior Departmental official present at the meeting should assume responsibility for chairing the meeting. The Chairperson reserves the

right to employ the precautionary principle and request further information from QMAC Members, on behalf of the Minister, to preserve the integrity of the QMAC and any decisions the Minister makes on the recommendations of the QMAC, and to advise the Minister on matters relating to conflict of interest. Any QMAC Member is required to fully cooperate with any such request. Finally, the Chairperson also deals with any complaints that a QMAC member has breached the QMAC Code of Conduct and can refer the matter to the Minister for final decision.

**Industry:** fishing industry representatives from the catching and processing sectors who make recommendations to the QMAC on the management of the national fishing quotas. Industry representatives also act as QMAC Members and are bound by the Conflict of Interest Policy in the same manner as other QMAC Members.

**Department:** refers to the Department of Agriculture, Food and the Marine. The role of the Department in respect of quota management is to effectively administer Ireland's fishing resources and conserve stocks. Department staff also act as QMAC Members and are bound by the Conflict of Interest Policy in the same manner as other QMAC Members.

**SFPA:** refers to the Sea-Fisheries Protection Authority. The role of the SFPA in respect of quota management is to ensure compliance with statutory provisions. The SFPA are also responsible for the provision of accurate data on quota and effort uptake to the Department on an ongoing basis. SFPA staff also act as QMAC Members and are bound by the Conflict of Interest Policy in the same manner as other QMAC Members.

The Quota Management Advisory Committee (QMAC) is a formal consultative committee, involving fishing industry representatives from the catching and processing sectors, which exists at the discretion of the Minister for Agriculture, Food and the Marine. The QMAC (previously known as the Whitefish Advisory Committee) has been in place for over twenty years. It was initially made up of four Producer Organisations and the Irish Fish Processors and Exporters Association only, but has evolved over the years. The National Inshore Fisheries Forum and Co-ops joined the Committee in the last decade. The Irish Islands Marine Resource Organisation joined the QMAC in more recent years. In the early years, the control representatives, and later the SFPA, had a more active role at the QMAC meetings in terms of advising from a control perspective. In later years, their role was qualified to the provision of data.

The Committee is currently composed of:

- Representatives from the Department of Agriculture, Food and the Marine (including a senior Departmental official acting as Chairperson);
- Representatives from the Sea Fisheries Protection Authority;
- One representative from each of the 5 Producer Organisations:
  1. Killybegs Fishermen's Organisation,
  2. Irish Fish Producers Organisation,
  3. Irish South & East Fish Producers Organisation,
  4. Irish South & West Fish Producers Organisation;
  5. Irish Islands Marine Resource Organisation;
- One representative from the Irish Fish Processors and Exporters Association;
- One representative from the National Inshore Fisheries Forum;
- One representative from the Co-Operative group.

The QMAC currently meets on a monthly basis. The purpose of these meetings is to make recommendations to the Minister on monthly/bi-monthly/quarterly regimes for particular stocks and, as far as possible, the Minister follows their recommendations for regimes for particular stocks, subject to the proper management and rational exploitation of our fisheries. Additional meetings are organised as required to discuss specific issues in particular fisheries that may arise.

The QMAC procedure for recommending quotas for the various (mainly demersal) fisheries is as follows:

- About one week prior to the QMAC meeting, the most recent quota uptake (for the year) and projection figures (for the fishery management period) are requested by the Department from the SFPA. The SFPA provide the Department with a live whitefish sheet with the requested figures.
- Using this live whitefish sheet and consulting FIDES (Fishery Data Exchange System) for the most up-to-date quotas and regimes, as adjusted (e.g. following swaps), the Department then updates a provisional master document which contains a Whitefish Summary Sheet, a Pelagic Summary Sheet, a Deep Sea Summary Sheet, an Effort Summary Sheet, and an individual sheet for each stock. The Department also details the catch limits for the previous fishery management period for ease of reference.
- This master document is again returned by the Department to the SFPA, along with details of swaps completed since the last meeting, for further updates of uptake and projections.
- The final up-to-date master document is sent back to the Department, usually on the evening before the QMAC meeting is due to take place, for distribution to industry members.
- At the QMAC, before the whitefish regimes are discussed, swaps are first discussed so that the Committee has a complete picture of the amount of each stock available for distribution.
- The whitefish regimes are then discussed one-by-one. The QMAC operate by examining in detail the operation of each fishery, uptake patterns and available quota for the different métiers of fishing vessels, including inshore fishing vessels. There are detailed discussions on allocations, often taking account of the divergent situation of the fleet and of the market. The QMAC may also take account of the weather/sea conditions in the preceding quota period and the impact this may have had on the industry during that period, particularly in respect of the smaller vessels. It also has the possibility of recommending additional catch limits to incentivise the introduction of environmentally friendly fishing gear in particular fisheries or for particular types of vessels.
- Following this discussion, each industry representative is asked for his or her recommendation for each of the whitefish stocks, plus a recommendation on the under 18 metre Mackerel fishery and,

where relevant, the under 20 metre Celtic Sea Herring fishery and the Mackerel Hook & Line fishery. There is generally consensus between industry members, however where there is no consensus the divergent views of the group are brought to the Minister to inform his or her decision.

- Pelagic issues, effort issues and deep-sea issues, where relevant, are also discussed and recommendations brought to the Minister to inform his or her decision.

The Minister introduces statutory provisions, known as Fisheries Management Notices, taking into account the advice of the QMAC, which give legal effect to the catch limits for the fishery for the specified period.

The fish quota management system is designed to ensure, having regard to fishing patterns and market conditions, the best possible spread both between fishing vessel operators and in terms of take up of quota during the year. The arrangements have been set and developed over many years since the commencement of the Common Fisheries Policy (CFP) and the introduction of quotas. Any amendments or changes to the overarching policy on management arrangements are determined by the Minister following detailed analysis and full consultation with stakeholders, in particular the fishing industry.

A key objective of whitefish quota management is the avoidance of very early closure of fisheries through rapid exhaustion of quota. This is important because our whitefish fisheries are mixed and the exhaustion of a single stock could lead to the closure of all fisheries in an area. This is a very significant concern because the landing obligation (discards ban) is now in place. In Ireland, quota is a public resource and is managed to ensure that property rights are not granted to individual operators. This is seen as a critical policy in order to ensure that quotas are not concentrated into the hands of large fishing companies whose owners have the financial resources to buy up such rights. In Ireland, any movement towards privatisation and concentration of rights into the hands of large companies would seriously risk fishing vessels losing an economic link with Ireland's coastal communities and undermining the socio-economic importance of the fishing industry in the coastal communities dependent on fishing. The result of this long-standing policy is that the Irish fishing fleet involves a balanced spread of sizes and types of fishing vessels who have retained a strong economic link with our coastal communities and have delivered economic activity including vital employment in these communities, where there are very limited alternative economic activities.

## **Objective of the Code**

This Code sets out an agreed set of ethical principles that all QMAC members should adhere to. The Code aims to promote the maintenance of mutual respect, trust and confidence by QMAC members as well as preventing the development or acceptance of any unethical practices.

## **General Guidelines**

QMAC members are expected:

- to act in good faith;
- to behave in a professional manner;
- to treat others equally, fairly and with respect;
- to work collaboratively with colleagues;
- to cooperate with the Chairperson at all times.

## **Specific Guidelines**

### ***Understanding of the Role***

QMAC members are responsible for ensuring that they have a clear understanding of their role and the role of the QMAC.

### ***Confidentiality and Information***

QMAC members will observe the requirements of non-disclosure of any privileged or confidential information to any third party. This continues to apply where membership of the QMAC has ended.

### ***Conflicts of Interest***

As outlined above, all QMAC members are required to file a Declaration of Interests form, to keep it up to date and to declare additional interests as necessary prior to or during each meeting. QMAC members should always declare any interest to the Chairperson of the QMAC. QMAC members are required to fully cooperate with the Chairperson of the QMAC and/or the Minister in respect of any request for further information in relation to any interest.

### ***Conduct***

The conduct of QMAC members shall be characterised by mutual respect. Furthermore, QMAC members have a responsibility for upholding the QMAC's reputation and integrity and should avoid acting in a way that could bring the QMAC into disrepute. Those Members of the QMAC holding designated positions as outlined in the Ethics in Public Office Act 1995 and 2001 and the Standards in Public Office Act 2001 must disclose any outside employment/business interests to the Minister so that the Minister may determine whether any of the interests declared may actually or may reasonably be perceived to give rise to a conflict of interest ('perceived conflict') when giving a view on quota management issues. QMAC members should endeavour to attend all QMAC meetings, where possible.

### ***Complaints***

As outlined above, complaints that a QMAC member has breached the QMAC Code of Conduct should be made at the earliest opportunity to the Chairperson of the QMAC. The Member has the right to have the complaint outlined to them and a right of reply. The Chairperson of the QMAC has the right to advise the QMAC of the outcome of the decision. As outlined before, repercussions may include, where applicable, possible exclusion from QMAC meetings or suspension for an appropriate number of meetings, depending on the seriousness of the breach. If a breach of the code is found to have occurred, decisions made at the QMAC in good faith can also be retroactively cancelled or amended.

### ***Review***

The Department and QMAC members can review the Code of Conduct as appropriate.

*Last updated April 2022.*